

IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

SPECIAL CIVIL APPLICATION No 4911 of 1984

For Approval and Signature:

Hon'ble MR.JUSTICE S.K.KESHOTE

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1. Whether Reporters of Local Papers may be allowed to see the judgements?
2. To be referred to the Reporter or not?
3. Whether Their Lordships wish to see the fair copy of the judgement?
4. Whether this case involves a substantial question of law as to the interpretation of the Constitution of India, 1950 of any Order made thereunder?
5. Whether it is to be circulated to the Civil Judge?

SATISH P GOHEL

Versus

SANGEET NATYA BHARTIA SANGIT MAHAVIDYALAYA & ANR.

Appearance:

MR KETAN DAVE for Petitioner

MR YS LAKHANI for Respondent No. 1

CORAM : MR.JUSTICE S.K.KESHOTE

Date of decision: 30.8.96

C.A.V. JUDGMENT

Heard learned counsel for the parties. The petitioner, who was a demonstrator in Sangit Mahavidyalaya, run by Sangit Natya Bharti Mahavidyalaya, Rajkot, filed this petition before this Court in which challenge is made to the award of the Labour Court, Rajkot in Ref. (LCB) No.683 of 1980 dated 17.1.84.

2. The petitioner raised a dispute against the order

of termination of his service dated 23rd June 1980. The dispute has been referred to the Labour Court and the termination has been challenged by the petitioner before the Labour Court, Rajkot, on the ground that it is a case of retrenchment but the provisions of Sec.25(F) of the Industrial Disputes Act, 1947 (hereinafter referred to as "I.D. Act"), have not been complied with before termination his services. The Labour Court, though found it to be a case of retrenchment of petitioner without compliance of the provisions of Sec.25(F) of the I.D. Act, dismissed the reference on the ground that the petitioner was not a workman as defined u/s.2(s) of the I.D. Act.

3. The learned counsel for the petitioner contended that the Labour Court has committed illegality in holding the petitioner to be a teacher. The petitioner was no a teacher but he was a demonstrator. The learned counsel for the petitioner has failed to give out how the demonstrator cannot be a teacher. One cannot go by the nomenclature which has been given to a teaching post. The Labour Court, after taking into consideration the provisions of Saurashtra University Act and particularly statute framed u/s.65(4) of the said Act, held that the petitioner is a teacher under the statute framed under the aforesaid Act. as the term 'teacher' shall include professors, readers, lecturers, tutors and full time demonstrators who are imparting instructions in a recognized institution or an affiliated college or an approved institution or a University Department, under the said Act. The Labour Court has further considered the provisions of statute 97 under which Fine Arts is one of the subjects comprised in faculty of Arts. Music, Dance and Drama are the subject of Fine Arts. The petitioner was appointed in the institution as a demonstrator (teacher) in Harmonium. The institution was imparting instructions in music, one of the subjects of Fine Arts. The learned counsel for the petitioner is unable to make out any case of error apparent on the fact of the award of Labour Court which calls for reference of this Court. The learned counsel for the respondent brought to the notice of this Court a fact that the petitioner is not a person who is in need of employment. During the course of proceedings pending before the Labour Court, the institution was prepared to reinstate the petitioner as a full time demonstrator on his initial pay, but he declined to accept that employment. The learned counsel for the respondent on this fact, contended that the petitioner is not interested in employment. It has further been contended that, because the petitioner has declined the offer given to him for

reinstatement, though may be on initial pay, this fact is sufficient for drawing inference that he is in better employment. I do not consider it to be appropriate to go on this question when I am satisfied that the Award which has been challenged by the petitioner in this Special Civil Application does not call for any interference of this Court.

4. The learned counsel for the petitioner contended that this Court may give the petitioner liberty to approach the Tribunal constituted for redressal of grievances of teachers in the affiliated colleges as the Labour Court has declined to give him relief on merits on the ground that he is not workman. I fail to understand what for the liberty is to be given to the petitioner by this Court. In case the petitioner has any remedy available against the order of termination of his services, it is always open to him to approach the appropriate Court for which no liberty or permission of this Court is required. This petitioner is pending since 1984. After it, the Hon'ble Supreme Court has also decided that the petitioner is not a workman, the petitioner has not taken any step to approach to other available remedy. Be that as it may. No such liberty is required to be given.

5. In the result, this Special Civil Application fails and the same is dismissed. Rule is discharged. No order as to costs.

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(sunil)